UNITED STATES PATENT AND TRADEMARK OFFICE

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10/748,685	12/31/2003	George Fitzmaurice	1500.1083	1979

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EXAMINER
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ART UNIT	PAPER NUMBER
2174	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/748,685	FITZMAURICE ET AL.
	Examiner	Art Unit	
	LE NGUYEN	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>01 August 2008</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>7-17</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>7-17</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

       1. ☐ Certified copies of the priority documents have been received.

       2. ☐ Certified copies of the priority documents have been received in Application No. _____.

       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This communication is responsive to an amendment filed 8/1/08.

2.   Claims 7-17 are pending in this application; and, claims 8 and 17 are

independent claims. Claims 1-6 and 18-27 have been cancelled. This action is made

Final.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 7-9 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Screen Dumps of Macromedia Flash MX ("Macromedia Flash") in view of

Bernstein et al. ("Bernstein" , US 2004/0093565), in view of Buxton et al. ("Buxton", US

6,094,197), and further in view of Arita (US 5,821,926).

As per claim 8, although Macromedia Flash teaches an interface comprising

layer representation graphic having layer names inputable by a user and displayable

(figs. 2 and 4; page 1) and a control associated with the representation graphic

activable from within the layer representation and that allows a corresponding layer to

be edited (figs. 2-4; *for each layer, controls such as controls 38 and 40 are activatable,*

from within the layer representation, to display a pop-up menu such as pop-up menu

50), Macromedia Flash does not explicitly disclose input by a user that is displayable as hand drawn strokes. Bernstein teaches input by a user that is displayable as hand drawn strokes (Abstract; figs. 10-11). It would have been obvious to an artisan at the time of the invention to incorporate the method of Bernstein with the method of Macromedia Flash given that pen-based systems are particularly well-suited for mobile users due to the ease of use and portability of pen peripherals and that handwritten ink are often times more recognizable to the user of the pen-based system, given that handwriting recognition software are prone to errors. However, Macromedia Flash and Bernstein do not explicitly disclose the activation being one of pressing a left mouse button and pressing a pen tip. Buxton teaches activation of a pop-up menu being one of pressing a left mouse button and pressing a pen tip (col.11, lines 37-42; *activation via pressing a pen tip*). It would have been obvious to an artisan at the time of the invention to incorporate the method of Buxton with the modified method of Macromedia Flash and Bernstein in order to assist users who have not yet memorized the pen strokes required to activate the menu.

Macromedia Flash, Bernstein & Buxton still do not explicitly disclose the graphic having target areas with target sizes of at least 2e where e is the distance error accuracy of an input device, i.e. the graphic may merely be some GUI box or window corresponding to a layer, and that this GUI box or window has other graphic objects which are targets, and that because there is always some distance accuracy error in using an input device to position the cursor, these graphic objects are designed to be at least twice that distance error (specification, pp 3-4). Arita teaches graphic objects,

which are targets having target areas, with target sizes wherein a distance accuracy
error in using an input device to position the cursor and the graphic objects are
designed to be at least twice that distance error (col. 26, lines 1-8). It would have been
obvious to an artisan at the time of the invention to incorporate the method of Arita with
the method of Macromedia Flash, Bernstein & Buxton in order to provide users with a
design choice given that windowing systems are designed to have icons bigger than a
threshold size so that a cursor can properly select the icon, and twice that accuracy
distance of the input device would be the necessary threshold size of the icon/object in
order to be able to place the cursor anywhere on the icon/object and make sure it is
being selected.

As per claim 7, the modified Macromedia Flash teaches an interface comprising:
a drawing dialog box invoked by the control and allowing the user to input the layer
names (Macromedia Flash: figs. 2-4; page 1; Bernstein: sections [0039]-[0041]).

As per claim 9, the modified Macromedia Flash teaches an interface wherein the
control invokes a menu of a layer editing menu type (Macromedia Flash: figs. 2-4,
pages 1-3). The modified Macromedia Flash further teaches a menu being of a marking
menu type (Buxton: fig. 11; col. 9, lines 27-28 and 56-67).

As per claim 11, the modified Macromedia Flash teaches an interface wherein
each layer control comprises a pop-up menu control for layer editing comprising
performing selection or operations with underlying menus where a) activation of a
control via a click selects a corresponding layer, and b) execution of another click
selects an operation on the layer (Macromedia Flash: figs. 2-4; *i.e. activation of a*

control via a "click" selects a corresponding layer for an editing operation on the layer).
The modified Macromedia Flash further teaches a marking menu that performs
selections or operations with underlying menus where a mark simultaneously selects a
graphical representation and selects an operation on the graphical representation
(Buxton: fig. 11; col. 9, lines 27-28 and 56-67) as well as a graphical representation
having layer names and additional controls associated with the graphical representation
such as a move control for moving a position of a layer in a layer editor stack
(Macromedia Flash: figs. 2-4; *via a drag operation in the timeline*) and a transparency
control controlling the transparency of a corresponding drawing layer (Macromedia
Flash: figs. 2-4; *via Windows > Panel > Effect*).

      As per claim 12, the modified Macromedia Flash teaches an interface wherein
each layer graphic has an indicator indicating whether a corresponding drawing layer is
hidden or visible (Macromedia Flash: figs. 2-4; *in the eye icon column, indicators "·"
indicate that the layers are visible*).

      As per claim 13, the modified Macromedia Flash teaches an interface wherein
each layer graphic has an indicator indicating whether a corresponding drawing layer is
one of hidden or locked (Macromedia Flash: figs. 2-4; *from left to right, first "·"
(depicted) indicator indicates that the layers are visible, while "✕" (not shown) indicator
indicates that the layers are hidden; and, second "·" indicator (depicted) indicates that
the layers are unlocked, while a lock icon indicator (not shown) in place of the "·"
indicator indicates that the layers are locked*).

As per claim 14, the modified Macromedia Flash teaches an interface wherein a background layer has a text label (Macromedia Flash: fig. 4; *background layer "Layer 2"*).

As per claim 15, the modified Macromedia Flash teaches an interface comprising a graphical representation having layer names (Macromedia Flash: figs. 2-4; *e.g. "Layer 1" and "square"*) and a pop-up menu control activatable for each layer, the layer editor interface further comprising performing selection or operations with underlying menus where a) activation of a control via a click selects a corresponding layer, and b) execution of another click selects an operation on the layer (Macromedia Flash: figs. 2-4; *i.e. activation of a control via a "click" selects a corresponding layer for an editing operation on the layer*). The modified Macromedia Flash further teaches performing selections or operations with underlying menus where a mark simultaneously selects a graphical representation and selects an operation on the graphical representation (Buxton: fig. 11; col. 9, lines 27-28 and 56-67).

As per claim 16, the modified Macromedia Flash teaches an interface wherein making a marking gesture in association with the layer representation graphic initiates a function with respect to one or more of the layers (Macromedia Flash: figs. 2-4, pages 1-3; Bernstein: section [0039]).

5.   Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Screen Dumps of Macromedia Flash MX ("Macromedia Flash") in view of Bernstein et al. ("Bernstein", US 2004/0093565), Buxton et al. ("Buxton", US 6,094,197) and Arita (US 5,821,926) as applied to claim 8, and further in view of Tosey (US 2004/0125153).

As per claim 10, although the modified Macromedia Flash teaches an interface wherein an active layer is highlighted with shading surrounding the name (Macromedia Flash: figs. 2-3), the modified Macromedia Flash does not explicitly disclose highlighting with a frame surrounding the name. Tosey teaches highlighting with a frame surrounding a name (fig. 1; paragraph [0002]; *element 100*). It would have been obvious to an artisan at the time of the invention to incorporate the method of Tosey with the method of the modified Macromedia Flash as an implementation preference for emphasizing objects that have focus.

6.   Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Screen Dumps of Macromedia Flash MX ("Macromedia Flash") in view of Bernstein et al. ("Bernstein", US 2004/0093565), in view of Buxton et al. ("Buxton", US 6,094,197) in view of Arita (US 5,821,926), in view of Tosey (US 2004/0125153), and further in view of Decoste et al. ("Decoste", US 6,317,142 B1).

As per claim 17, Macromedia Flash teaches a layer editor interface comprising layer representation graphic having selection targets with a box shape, each selection box comprising controls activatable for each layer and having layer names inputable by a user and displayable (figs. 2 and 4; page 1) comprising: a drawing dialog box invoked by the control and allowing the user to input the layer names (figs. 2-4; page 1), a graphical representation having layer names and additional controls associated with the graphical representation such as a move control for reordering or moving a position of a layer in a layer editor stack (figs. 2-4; *via a drag operation in the timeline*) and a transparency/opacity control controlling the transparency/opacity of a corresponding

drawing layer (figs. 2-4; *via Windows > Panel > Effect*) and a control associated with the representation graphic activable from within the layer representation and that allows a corresponding layer to be edited (figs. 2-4; *for each layer, controls such as controls 38 and 40 are activatable, from within the layer representation, to display a pop-up menu such as pop-up menu 50*) wherein controls include selections for new layer (figs. 2-4; page 3; *"Insert > Layer"*), rename layer (figs. 2-4; page 1; *"Properties"*), delete layer (figs. 2-4; page 1; *"Delete Layer"*), merge layer (figs. 2-4; page 3; *wherein the active layer is combined with the layer below the active layer so that the content of the layers are combined*), lock layer (figs. 2-4), hide layer (figs. 2-4), position layer (figs. 2-4; page 2; *comprises a mode in which dragging on the layer itself moves the currently selected layer in 2 dimensions*) and an option of clearing the contents of the active layer (figs. 2-4; *via Edit > Cut or Edit > Clear selection*) wherein a control invokes a menu of a layer editing menu type (figs. 2-4, pages 1-3), wherein an active layer is highlighted with shading surrounding the name (figs. 2-3), wherein each layer graphic has an indicator indicating whether a corresponding drawing layer is hidden or visible (Macromedia Flash: figs. 2-4; *in the eye icon column, indicators "·" indicate that the layers are visible*), wherein each layer graphic has an indicator indicating whether a corresponding drawing layer is one of hidden or locked (Macromedia Flash: figs. 2-4; *from left to right, first "·" (depicted) indicator indicates that the layers are visible, while " ✗ " (not shown) indicator indicates that the layers are hidden; and, second "·" indicator (depicted) indicates that the layers are unlocked, while a lock icon indicator (not shown) in place of the "·" indicator indicates that the layers are locked*) and wherein each layer control comprises

a pop-up menu control for layer editing comprising performing selection or operations

with underlying menus where a) activation of a control via a click selects a

corresponding layer, and b) execution of another click selects an operation on the layer

(figs. 2-4; *i.e. activation of a control via a "click" selects a corresponding layer for an*

editing operation on the layer). Macromedia Flash does not explicitly disclose input by a

user that is displayable as hand drawn strokes. Bernstein teaches input by a user that

is displayable as hand drawn strokes (Abstract; figs. 10-11). It would have been obvious

to an artisan at the time of the invention to incorporate the method of Bernstein with the

method of Macromedia Flash given that pen-based systems are particularly well-suited

for mobile users due to the ease of use and portability of pen peripherals and that

handwritten ink are often times more recognizable to the user of the pen-based system,

given that handwriting recognition software are prone to errors. However, Macromedia

Flash and Bernstein do not explicitly disclose a menu being of a marking menu type

wherein the activation is one of pressing a left mouse button and pressing a pen tip.

Buxton teaches a menu being of a marking menu type wherein activation of a pop-up

menu being one of pressing a left mouse button and pressing a pen tip (fig. 11; col. 9,

lines 27-28 and 56-67; col.11, lines 37-42; *activation via pressing a pen tip*). It would

have been obvious to an artisan at the time of the invention to incorporate the method of

Buxton with the modified method of Macromedia Flash and Bernstein in order to assist

users who have not yet memorized the pen strokes required to activate the menu.

Macromedia Flash, Bernstein & Buxton do not explicitly disclose the graphic

having target areas with target sizes of at least 2e where e is the distance error

accuracy of an input device, i.e. the graphic may merely be some GUI box or window

corresponding to a layer, and that this GUI box or window has other graphic objects

which are targets, and that because there is always some distance accuracy error in

using an input device to position the cursor, these graphic objects are designed to be at

least twice that distance error (specification, pp 3-4). Arita teaches graphic objects,

which are targets having target areas, with target sizes wherein a distance accuracy

error in using an input device to position the cursor and the graphic objects are

designed to be at least twice that distance error (col. 26, lines 1-8). It would have been

obvious to an artisan at the time of the invention to incorporate the method of Arita with

the method of Macromedia Flash, Bernstein & Buxton in order to provide users with a

design choice given that windowing systems are designed to have icons bigger than a

threshold size so that a cursor can properly select the icon, and twice that accuracy

distance of the input device would be the necessary threshold size of the icon/object in

order to be able to place the cursor anywhere on the icon/object and make sure it is

being selected.

      Macromedia Flash, Bernstein, Buxton & Arita do not explicitly disclose

highlighting with a frame surrounding the name. Tosey teaches highlighting with a frame

surrounding a name (fig. 1; paragraph [0002]; *element 100*). It would have been obvious

to an artisan at the time of the invention to incorporate the method of Tosey with the

method of Macromedia Flash, Bernstein, Buxton & Arita as an implementation

preference for emphasizing objects that have focus.

Macromedia Flash, Bernstein, Buxton, Arita & Tosey still do not explicitly disclose a slider for setting opacity. Decoste teaches a slider for setting opacity (col 14, lines 28-43). It would have been obvious to an artisan at the time of the invention to incorporate the method of Decoste with the method of Macromedia Flash, Bernstein, Buxton, Arita & Tosey so that users have control over the region(s) to be filled.

Response to Arguments

7.   Applicant's arguments filed 8/1/08 have been fully considered but they are not persuasive. Applicant argued: Arita fails to disclose the feature that the graphic has target areas with target sizes of at least 2e where e is a distance error accuracy of an input device and, moreover, Arita is merely concerned with changing the display size of buttons used with high frequency so that a user can easily find and select those buttons

The Office disagrees for the following reasons: Arita describes displaying a button class district twice as large as the button class commodity to enable the user to easily find and select the button class used with high frequency as acknowledged by applicant. Therefore, with a larger target distance and size for target areas used with higher frequency, Arita's target area with target sizes 2 times larger than the norm would mitigate user's error or unintentional selection of items preferred or typically selected by the user via an input device (fig. 26; col. 26, lines 4-8), which is consistent with the claim language that a target area having target sizes of 2 x e (or 2 times e or twice as large for a mathematical expression with a numeral such as 2 and a variable such as "e") wherein e is distance error accuracy of an input device.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time
policy as set forth in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE
MONTHS from the mailing date of this action. In the event a first reply is filed within
TWO MONTHS of the mailing date of this final action and the advisory action is not
mailed until after the end of the THREE-MONTH shortened statutory period, then the
shortened statutory period will expire on the date the advisory action is mailed, and any
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of
the advisory action. In no event, however, will the statutory period for reply expire later
than SIX MONTHS from the mailing date of this final action.

Inquires

9.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Examiner Lê Nguyen whose telephone number is **(571)
272-4068**. The examiner can normally be reached on Monday - Friday from 7:00 am to
3:30 pm (EST).

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Stephen Hong, can be reached at (571) 272-4124.

        Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

LVN
Patent Examiner
December 7, 2008

/Stephen S. Hong/

Supervisory Patent Examiner, Art Unit 2178